

**§ 3560.576 Occupancy restrictions.**

(a) *Restrictions on conditions of occupancy.* (1) No borrower or grantee will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing.

(2) Tenant selection should be in accordance with the loan agreement, subpart D of this part and § 3560.577.

(3) No borrower or grantee will discriminate, or permit discrimination by any agent, lessee, or other operator in the use or occupancy of the housing or related facilities because of race, color, religion, sex, age, disability, familial status, or national origin.

(b) *Eligible households.* To be eligible for occupancy in off-farm labor housing, households must meet the following requirements.

(1) *Occupational.* An eligible household must include a domestic tenant or co-tenant farm laborer, a retired domestic farm laborer, or a disabled domestic farm laborer.

(2) *Income.* The household must meet the definition of income eligible as established in § 3560.152 and the tenant or co-tenant must receive a substantial portion of income from farm labor employment. To determine if a substantial portion of income is from farm labor employment, the following measures will be used.

(i) For housing rented to farm laborers and owned by public bodies, public or private nonprofit organizations, and limited partnerships when charging rent.

(A) Actual dollars earned from farm labor by domestic farm laborers other than migrant farmworkers must equal at least 65 percent of the annual income limits indicated for the Standard Federal regions as published by the Agency for their particular region of the country. For migrant farmworkers living in seasonal housing the actual dollars earned from farm labor by a domestic farm laborer must equal at least 50 percent of annual income limits indicated for the Standard Federal regions, as published by the Agency.

(B) An alternate measure for determining substantial portion of income when actual earnings are not available may be the duration of time a farm la-

borer worked on a farm or other farming enterprise as a domestic farmworker during the preceding 12 months. In order to be considered as substantial the farm laborer must have worked at least 110 whole days in farm work. For purposes of this section one whole day is the equivalent of at least 7 hours. When using a period of more than 1 year, a yearly average must amount to at least 110 days per year.

(ii) For housing owned by a farmer, family-farm partnership, family-farm corporation, or an association of farmers which was initially provided on a non-rental basis, a substantial portion of income is earned when housing is provided by the owner as part of employment compensation for farm labor.

(iii) When a natural disaster has occurred, such as a drought, flood, freeze, etc., figures for the 12 months preceding such disaster will be used to determine substantial portion of income under paragraph (b)(2) of this section.

(iv) The tenant who qualifies as a domestic farm laborer residing in a property with a nonrestrictive farm labor clause in the mortgage covenants must not have adjusted income which exceeds the moderate income limit for the appropriate household size and appropriate geographical area.

(3) *Occupancy.* The household must remain in compliance with the borrower's occupancy policy as established in § 3560.155.

(c) *Tenant eligibility requirements for operating assistance rents.* To be eligible for operating assistance rents, tenants must meet the rental assistance eligibility requirements described in § 3560.573 and in § 3560.252.

(d) *Ineligible tenants.* Tenants who, at any time, fail to meet all the requirements in paragraph (b) of this section will be deemed ineligible for occupancy in off-farm labor housing. Ineligible tenants in off-farm labor housing will be addressed in accordance with the requirements of § 3560.158.

(e) *Non-farm laborer tenants.* When there is a diminished need for housing for persons or families in the above categories, units in off-farm labor housing complexes may be made available to persons or families eligible for occupancy under § 3560.152. Eligible tenants under this section may occupy the

## Rural Housing Service, USDA

## § 3560.603

labor housing until such time the units are again needed by persons or families eligible under paragraph (b) of this section. As the basis for Agency approval or disapproval of the borrower's determination of diminished need, the borrower must submit a current analysis of need and demand to the Agency, identical to the market analysis that is required of loan applicants in the loan origination process. The borrower's determination and the State Director's recommendation should be forwarded to the National Office for concurrence. The procedures specified in § 3560.158 shall be followed when tenants are required to vacate housing to allow for occupancy by persons eligible under paragraph (b) of this section.

### § 3560.577 Tenant priorities for labor housing.

Tenant occupancy in off-farm labor housing is based on eligible farm labor certified through the income certification process required by § 3560.152 and is prioritized in the following order.

(a) First priority is to be given to eligible active farm laborer households with first priority going to very low-income households, next priority to low-income households, and last to moderate-income households.

(b) Second priority is given to retired domestic farm laborer households and disabled domestic farm laborer households who were active in the local farm labor market area at the time of retiring or becoming disabled. Occupancy priority will be given in accordance with paragraph (a) of this section.

(c) Third priority is to be given to retired domestic farm laborer households and disabled domestic farm laborer households who were not active in the local farm labor market at the time of retiring or becoming disabled. Occupancy priority will be given in accordance with paragraph (a) of this section.

### § 3560.578 Financial management of labor housing.

The requirements established in subpart G of this part will apply to all off-farm labor housing.

### § 3560.579 Servicing off-farm labor housing.

The requirements established in subparts I and J of this part will apply to all off-farm labor housing. Servicing according to subparts I and J of this part shall apply throughout the term of the loan or grant, whichever is longer.

### §§ 3560.580–3560.599 [Reserved]

### § 3560.600 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0189. Public reporting burden for this collection of information is estimated to vary from 15 minutes to 18 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. A person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

## Subpart M—On-Farm Labor Housing

### § 3560.601 General.

This subpart contains the requirements for making loans for on-farm labor housing and for ongoing operation and management of on-farm labor housing. Unless otherwise specified in this subpart, the requirements of subparts A through K, N, O, and P of this part will apply in addition to requirements given in this subpart.

### § 3560.602 Program objectives.

In addition to the objectives stated in § 3560.52, on-farm labor housing funds will be used to increase:

(a) The supply of affordable housing for farm labor; and

(b) The ability of the farmer to provide affordable, decent, safe and sanitary housing for farm workers.

### § 3560.603 Loan purposes.

On-farm labor housing loans may be made only for the purposes established